

**BEFORE THE
NATURAL RESOURCES COMMISSION
OF THE
STATE OF INDIANA**

IN THE MATTER OF:

READOPTION OF 312 IAC 17,)	Administrative Cause
WHICH GOVERNS OTHER)	Number: 10-004G
PETROLEUM REGULATIONS)	
)	(LSA Document #10-38(F))

RECOMMENDATION FOR FINAL ACTION ON READOPTION OF RULE

A. INTRODUCTION

For Commission consideration is the readoption of 312 IAC 17, which governs other petroleum regulations. This article includes 312 IAC 17-1 (Definitions) and 312 IAC 17-2 (Test Holes for Fluid Disposal Investigation, Engineering Projects, Investigation, and Geologic Investigation). The text of 312 IAC 17 can be accessed through the Legislative Services Agency Internet site at <http://www.in.gov/legislative/iac/T03120/A00170.PDF>.

In April 2002, the Natural Resources Commission approved delegations of authority with respect to readoptions. Where the rules are being readopted in their current form without amendments, the Director of the Division of Hearings may approve preliminary action. However, the Commission retains authority to take final action on recodifications.

The rules codified under 312 IAC 17 are proposed for readoption without amendment. The Director of the Division of Hearings approved preliminary action on January 1, 2010. It is the standard practice to readopt rules by article, and 312 IAC 17 is now submitted for consideration as to final action.

B. READOPTION ANALYSIS REQUIRED UNDER IND. CODE § 4-22-2.5-3.1

Herschel McDivitt, Director of the Division of Oil and Gas, appointed James AmRhein as the Small Business Regulatory Coordinator for this rule readoption. AmRhein provided the following analysis of potential impacts to small business for the proposed readoption of 312 IAC 17:

READOPTON OF RULES: SMALL BUSINESS ANALYSIS

LSA Document #10-38

(Administrative Cause No. 10-004G)

The continued need for the rule.

The rule is necessary for the continued implementation of the regulatory programs administered by the Department of Natural Resources, Division of Oil and Gas, authorized under the statutory authority of IC 14-38.

312 IAC 17-1; This section provides for the Administration of the Exploration for, and Production of, Oil and Gas from Public Land, and specifically addresses;

- definitions with applicability to IC 14-38 and 312 IAC 17-1.
- Classification of public lands for exploration or leasing purposes
- Permit applications and public notice requirements
- Protection of private rights
- Bonding
- Competitive bidding process
- Unitization of state lands for common development, exploration and operation
- the extent of development of an oil and gas field

312 IAC 17-2; Test Holes for Fluid Disposal Investigation, Engineering Projects Investigation, and Geologic Investigation. This section governs the following:

- definitions applicable to IC 14-38 and 312 IAC 17-2
- General provisions which include the drilling, operation and bonding of test holes
- Prevention of waste
- defines the agency and division which administers the rule
- Addresses inspection powers
- Bonding
- Informal Hearings process
- Plugging and abandonment of test wells
- Protection of other commercial minerals

312 IAC 17-3; Geophysical Surveying – This section was repealed in 2006 and is no longer applicable.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency.

The nature of complaints from landowners: None

The nature of complaints from small businesses: None

**The complexity of the rule, including any difficulties encountered by:
(A) the agency in administering the rule:**

None

(B) small businesses in complying with the rule.

Because the rule has been in effect for a number of years, small business have learned to follow the requirements when leasing public lands or applying for test hole permits. Compliance or difficulties with the rule is generally not an issue.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances.

There are no other overlapping or conflicting rules at the local, state, or federal levels.

The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time.

This rule was recodified in 2004 and is continually reviewed to ensure its effectiveness. No changes have been made since the rule was adopted.

C. NOTICE OF INTENT TO READOPT AND RECOMMENDATION FOR FINAL ACTION

On January 20, 2010, a "Notice of Intent to Readopt" 312 IAC 17 was posted to the *Indiana Register* at 20100120-IR-312100038RNA as anticipated by Ind. Code § 4-22-2.5-2 and Ind. Code § 4-22-2.5-4. The notice indicated the intention to readopt the entirety of 312 IAC 17 without changes. The notice also provided that a person had 30 days to submit a written request to the Natural Resources Commission, through the Small Business Regulatory Coordinator, seeking to have a particular section of the rule readopted separately. If such a request had been made, the Commission would have been required to complete the full rule adoption process for the section requested to be readopted separately.

In this instance, no written request has been received. The Commission may either submit the rule for filing with the Publisher under Ind. Code § 4-22-2-35 or elect the procedure for readoption under Ind. Code § 4-22-2. It is recommended that the Commission approve for readoption 312 IAC 16, without amendment, for subsequent filing with the Publisher.

Dated: February 24, 2010

Sandra L. Jensen
Hearing Officer